
Appeal Decision

Site visit made on 16 January 2018

by S J Papworth DipArch(Glos) RIBA

an Inspector appointed by the Secretary of State

Decision date: 30th January 2018.

Appeal Ref: APP/U2235/W/17/3181014
35 Albion Place, Maidstone ME14 5DZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Da Vinci Construction Ltd against Maidstone Borough Council.
 - The application Ref 17/502444/FULL, is dated 8 May 2017.
 - The development proposed is new dwelling on existing office car park.
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Decision

1. I allow the appeal and grant planning permission for new dwelling on existing office car park at the rear of 35 Albion Place, Maidstone ME14 5DZ in accordance with the terms of the application, Ref 17/502444/FULL, dated 8 May 2017, subject to conditions 1) to 11) on the attached schedule.

Procedural Matter

2. The appellant had appealed against non-determination of application reference 17/502444/FULL as set out above. A subsequent revised application was submitted reference 17/503955/FULL and this was refused permission on 22 September 2017. The appellant requested that the drawings that were considered in the second application be the subject of the current appeal, being revised drawings 16-33-32A and 16-33-33A, along with drawings 31, 34 and 35 which remain the same as previously. The revision 'A' changes concern the addition of windows to the Queen Anne Road elevation away from the rear of the Albion Place properties cited in the reason for refusal and no interests would be prejudiced by considering those revision 'A' drawings. The Council formulated their case on that basis.

Main Issue

3. This is the effect of the proposed development on the outlook of neighbouring residential occupiers.

Reasons

Policy

4. The reason for refusal for application 17/503955/FULL referred to the Draft Maidstone Borough Local Plan. In fact the Maidstone Borough Local Plan was adopted on 25 October 2017 and the relevant section of Policy DM1 states that proposals will be permitted which would create high quality design and respect the amenities of occupiers of neighbouring properties and uses and provide

adequate residential amenities for future occupiers of the development by ensuring that development does not result in, or is exposed to, excessive noise, vibration, odour, air pollution, activity or vehicular movements, overlooking or visual intrusion, and that the built form would not result in an unacceptable loss of privacy or light enjoyed by the occupiers of nearby properties.

5. One of the core planning principles in paragraph 17 of the National Planning Policy Framework is to seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. The Government attaches great importance to the design of the built environment; good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people, as set out in paragraph 56.

Planning History

6. In addition to the applications referred to in 'Procedural Matters' above, permission was granted in January 2015 (Ref: 14/504451/FULL) for a three storey building the same distance from the rear of number 37 as is now proposed, being taller but less wide. The Council make clear the rationale for that permission as the permitted building would have the same footprint as an original building on the site which had been removed.
7. Another scheme was submitted in November 2016 for three storeys and a flat roof, and following the failure of the Council to determine that application, an appeal was lodged and dismissed (Ref: APP/U2235/W/17/3175299, despatch letter dated 8 September 2017). The main issue was the same as now and the Inspector took account not only of the residential use of numbers 37 and 39 Albion Place, but the potential for such use to be resumed in number 35. The Council take the same approach in this appeal.

Preliminary Finding

8. The rear area of 35 to 39 Albion Place and the Queen Anne Road frontages generally are of poor townscape quality. To the west side is a slightly elevated open car park which fails to provide an urban enclosure, and to the east there is the varied hardstandings of the appeal site, with car parking, indented building lines, fences, railings, posts and other artefacts. Two large buildings frame the view at either end of this part of the road, that to the south being a substantial block with a conventional eaves and pitched roof, whilst that to the north has a steep mansard style and parapet, similar to that now proposed on the appeal site.
9. The conclusion is that the building form now proposed would sit well in this area and would repair some of the damage to the street-scene. Clearly the Council do not object to this aspect of the proposal, but weight attaches to the benefit. The amendment in the revision 'A' drawings are more beneficial due to the improved arrangement of windows fronting Queen Anne Road.

Living Conditions

10. Having mind to the planning history, the considerations in this appeal relate to the combination of height and width, since the proximity is stated to be the same 12.1m in each case. The Council have previously found an 8.3m tall, but narrow building acceptable, and an Inspector has more recently found an 8.4m

tall, flat roofed wide building unacceptable by reason of its effect on numbers 35 to 39. The appeal proposal is less wide, which explains the Council's reference to only numbers 35 and 37, and is 5.9m to the parapet, the full 8.3m only being achieved at the ridge above and behind the two slopes of the mansard roof. In addition, the appellant's analysis is that the 2015 scheme would have 40m² of rear wall whereas the lower but wider appeal proposal would have a rear wall area of 46m². The outline of the 2015 building is shown in red on drawing 16-33-34 and the cross-section can be taken also to show in red the outline of the dismissed 2017 appeal building, albeit that would have been 0.1m taller.

11. That drawing shows the angles of outlook from the cill level of ground floor windows in the main part of numbers 35 to 39 and as before, it appears that the rear additions house only bathrooms and the like. The gardens mentioned in the reason for refusal would be closer, but would benefit from a more open aspect to left and right than might be available to a rear window, particularly where the rear additions interpose. The reduction in width from the previous appeal scheme assists significantly in this respect.
12. Tying all of the various considerations of width, height and the location of the upper height together, the appeal scheme would not appear over-dominant in the outlook from the rear rooms or gardens of properties on Albion Place and hence would respect the amenities of occupiers of neighbouring properties and uses, and would not result in excessive visual intrusion or an unacceptable loss of light, in the terms of Policy D1 of the recently adopted Local Plan. As a result, the proposed building is of the standard of design required in that Policy and the Framework.

Conditions

13. The Council suggested conditions, and it is necessary and reasonable in this location to require samples of materials including of boundary treatments, to require a landscaping scheme, as well as proposals for the enhancement of biodiversity and for energy conservation. Rear windows at first floor level should be obscure glazed to protect the neighbouring occupiers from overlooking, and as these are bathrooms in any event, that is reasonable. For similar reasons it is reasonable to remove permitted development rights for extensions. The proposed car parking should be secured by condition.
14. Some of the conditions refer to details being required prior to proceeding above either damp-proof course or slab level. Apart from this distinction being a fine one, there is no reason why the details should not be submitted and approved prior to commencement on such a small scheme, to ensure full control of quality in this public location.
15. Lastly, a condition is required detailing the drawings to which this permission relates, for the avoidance of doubt and in the interests of the proper planning of the area.

Conclusions

16. Having regard to previous decisions, the combination of width, height and the location of the upper height now proposed would not cause harm to the living conditions of neighbouring residential occupiers, and would accord with the relevant policy of the Development Plan. Furthermore, the building would

have a beneficial effect on the street-scene, not having the appearance of being 'unusually isolated' as the previous Inspector described the original building on the site, since the increased width would give the building a more substantial street presence. For the reasons given above it is concluded that the appeal should be allowed.

S J Papworth

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 16-33-31-location; 32-A; and 33-A;
- 3) The development hereby approved shall not commence until details and samples of the materials to be used in the construction of the external surfaces of the buildings and hard-surfacing have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using only the approved details and materials.
- 4) The development hereby approved shall not commence until details and samples of the materials to be used in the construction of boundary treatments have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed using only the approved details and materials.
- 5) The development hereby approved shall not commence until a soft landscape scheme designed in accordance with the principles of the Council's landscape character guidance has been submitted to and approved in writing by the local planning authority.
- 6) All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of five years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local Planning Authority gives written consent to any variation.
- 7) The development hereby approved shall not commence until details of a scheme for the enhancement of biodiversity on the site have been submitted to and approved in writing by the Local Planning Authority. The scheme shall consist of the enhancement of biodiversity through integrated methods into the design and appearance of the extension by means such as swift bricks, bat tube or bricks. The development shall be

implemented in accordance with the approved details and all features shall be retained thereafter.

- 8) The development hereby approved shall not commence until details of decentralised and renewable or low-carbon sources of energy to be used as part of the approved development have been submitted to and approved in writing by the Local Planning Authority including details of how they will be incorporated into the development. The approved measures shall be in place before first occupation of the development hereby approved and shall be retained and maintained as such at all times thereafter.
- 9) The development hereby permitted shall not be first occupied until the proposed first floor rear windows have been obscure glazed and are incapable of being opened except for a high level fanlight opening of at least 1.7m above inside floor level and the glazing and opening arrangements shall subsequently be retained as such.
- 10) The development hereby permitted shall not be first occupied until the vehicle parking spaces shown on the submitted plans have been provided and are available for use. They shall thereafter be permanently retained for parking and turning and shall not be used for any other purpose.
- 11) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2015 (or any order revoking and re-enacting that Order with or without modification), no extension to the property shall be carried out without the permission of the Local Planning Authority.